

### REMARKS

Reconsideration of the above identified patent application is again respectfully requested. Claims 1-14, 16-22 and 35 are pending. Claims 1, 14 and 35 are amended to more particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Claim 15 is canceled. Claims 23-34 are withdrawn as being directed to non-elected inventions. Applicants respectfully traverse the rejections under 35 U.S.C. 102 and 35 U.S.C. 103 as applied to the amended claims.

#### I. Interview Summary

Applicants wish to express appreciation to Examiner Mai for the courtesies extended to Applicants' attorney during the telephone interview on June 24, 2004. In the telephone interview, the discussion was focused on 1) the objections to the drawings submitted by Applicants on January 12, 2004, and 2) the art rejections in view of U.S. Patent 5,029,714 to Cassidy. With respect to the drawings, it was asserted that the original disclosure did not support the width and the extent of the uncoated stripe 42 as shown in proposed Fig. 9. With respect to the art rejection, it was asserted that Cassidy teaches uncoated regions at abseal portions 46 that would meet the claimed language. Although no agreement was reached, the claims are amended in light of the discussion to more particularly point out that which Applicants believe is the invention. It is respectfully submitted that Examiner Mai will find the amended claims allowable after further consideration.

## II. Non-Art Issues

### A. Drawings

Applicants respectfully request reconsideration of the drawing objections. Figs. 9 and Fig. 10 were submitted in the previous Response, filed January 12, 2004. The drawings were submitted in response to a request in the previous Office Action, which required corrected drawings showing of the uncoated stripe going through the knock-outs, the adhesive in Fig. 1, and a cross sectional view through each of the knock-outs and punch scores. Accordingly, Fig. 9 shows an embodiment of the carton with the uncoated stripe 42 going through the knock-outs 9, and Fig. 10 is a cross sectional view of the carton taken along a line through the knock-outs 9 and punch scores 8. Figs. 9 and 10 were subsequently disapproved for allegedly showing new matter.

As stated above, Fig. 9 shows an uncoated stripe 42 extending through the knock-outs 9 on panel 11. It is asserted that the original disclosure does not support "the extent of portion 42, and the width of portion 42." Applicants assume this assertion is made in reference to Fig. 9, and respectfully disagree with this assertion as applied to Fig. 9.

Applicants submit that the written description provides a detailed disclosure of the uncoated stripe 42. The uncoated stripe 42 is first described in reference to one embodiment of the invention, wherein the stripe 42 is located on the adhesive panel 15. Page 8, line 17 through page 9, line 3. The disclosure states that "the uncoated stripe 42 can be any length, but in the preferred embodiment the uncoated stripe 42 runs from the top end 16 to the bottom end 17 of the adhesive panel 15 through the center of the punch scores 8," and that "the size (including

both width and length) of the uncoated stripe 42 will affect the ease of opening the carton.” In addition, the original disclosure states at page 9, line 20 through page 10, line 1 that:

Although the uncoated stripe 42 was previously described as running through the punch scores 8 on the adhesive panel 15, it could alternatively run in a similar manner through the knock-outs 9 on the right panel 11. Regardless of which panel the uncoated stripe 42 is located on, if an uncoated stripe 42 is present it preferably runs through the center of the knock-outs 9 and punch scores 8. [As shown in original Fig. 8.]

Fig. 9 provides an example of the uncoated stripe 42 in this alternative location, wherein the stripe 42 runs through the knock-outs 9 on right panel 11. Original Fig. 8, disclosing a first example of the uncoated stripe 42, and new Fig. 9, disclosing the additional example of the uncoated stripe 42, are shown side-by-side below:

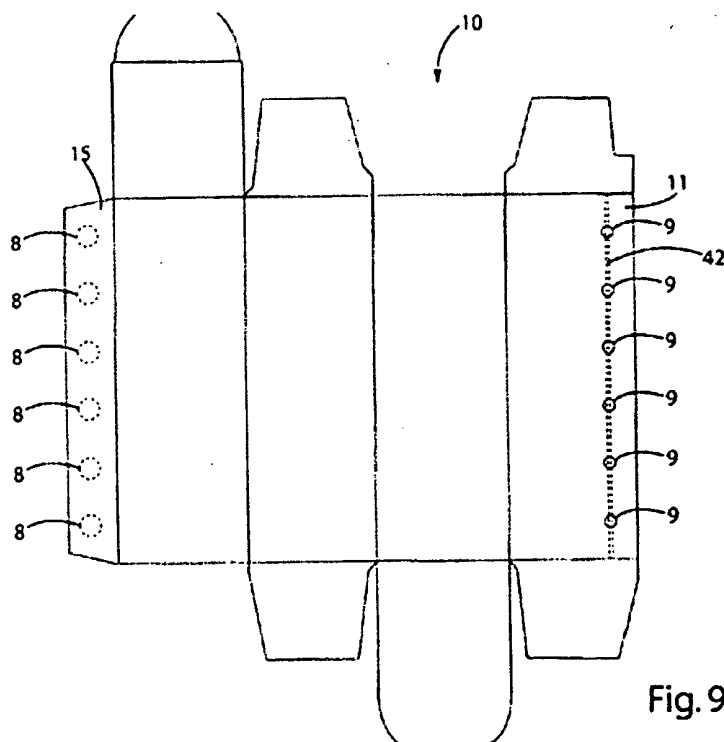


Fig. 9

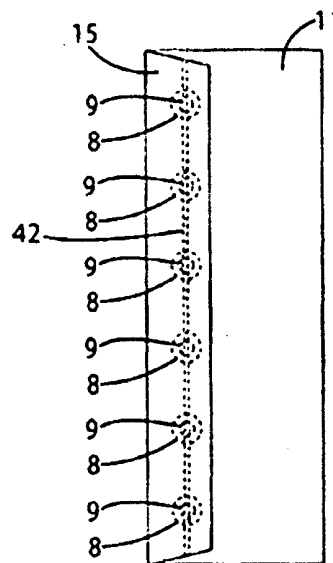


Fig. 8

Applicants submit that the original disclosure supports the detail of Fig. 9. The language of the written description provides for an uncoated stripe of varied size and length. In

addition, specific examples of the uncoated stripe 42 were already shown in the original drawings, such as Fig. 8 above, and the original disclosure expressly states that the stripe 42 of Fig. 8 may alternatively be located on the right panel 11. Fig. 9 merely shows the uncoated stripe 42 of Fig. 8 on an alternative panel, namely the right panel 11. as expressly set forth in the specification.

Disapproved Fig. 10 shows a cross section of the carton along a line through the knock-outs and punch scores. It is asserted that "the thickness of portions 55, 56, 11, 15, and the dimension of portions 8 and 9 are not consistent with the disclosure." Applicants assume this assertion is in reference to Fig. 10, and respectfully disagree with this assertion as applied to Fig. 10. Applicants submit that each layer shown in Fig. 10 is either conventional or is described in detail in the original disclosure.

Coatings and adhesives are well known for application to paperboard cartons. Therefore, people of skill in the art are highly familiar with the thicknesses and dimensions of paperboard, coatings, and adhesives. The original disclosure states that the paperboard (comprising layers 11 and 15 of Fig. 10), coating (layer 56), and adhesive (layer 55) of the present invention are all conventional. Page 6, lines 17-18; page 6 line 23 through page 7, line 1; page 10 lines 13-14. For additional guidance, the disclosure includes that the paperboard may have a thickness of approximately .010 to .024 inches.

The original disclosure provides a detailed description of the respective dimensions of the knock-outs 9 and punch scores 8. With respect to the punch scores 8, the original disclosure states that "the punch scores 8 can be to almost any depth in the adhesive panel 15, but in the preferred embodiment the punch scores 8 penetrate approximately  $\frac{1}{2}$  the

depth of the adhesive panel 15,” and that “in the illustrated embodiment, the punch scores 8 are circular, but they can be of nearly any shape,” and further that “The size of the punch scores 8 will vary from application to application, keeping in mind that, with typical paperboard [sic], adhesives and coatings, the punch scores make it easier to open the carton by facilitating separation between layers of the laminated paperboard.” Page 8, lines 5-12. With respect to the knock-outs 9, the disclosure states that the right panel has a number of uncoated portions or knock-outs, and that “the knock-outs 9 can be any size and shape, but are preferably approximately the same size and shape as the punch scores 8.”

Applicants submit that the original disclosure supports Fig. 10. Fig. 10 provides a cross sectional view of the layers 55, 56, 15, and 11. As mentioned above, each of these layers is either conventional or is described in detail in the written description. Each layer is not shown to scale, however, Applicants submit that a person skilled in the art would realize that this is necessary for identification of the coatings and adhesive, which have a much smaller thickness than the paperboard. Applicants submit that in light of the description of the paperboard dimensions, knock-out dimensions, and punch score dimensions, and further in light of the knowledge of a person of ordinary skill in the art regarding coatings, adhesives, and paperboard, Fig. 10 should be admitted into the application.

Furthermore, Applicants submit that Figs. 9 and 10 are not necessary. In light of the written description and drawings provided in the original disclosure, combined with the knowledge of those skilled in the art, Applicants submit that the content of Figs. 9 and 10 is not essential for a proper understanding of the invention.

B. Section 112 Rejections

As originally filed, claim 35 was rejected under 35 U.S.C. 112 for failing to comply with the written description requirement. It is asserted that claim 35 contains new matter because the original disclosure did not teach an adhesive that aligns with the punch scores and the knock-outs and extends across the adhesive panel along the punch scores and the knock-outs. Applicants respectfully disagree with this rejection. The original disclosure expressly states that "the adhesive is preferably applied in a line extending substantially along the entire length of the adhesive panel 15," and that "it is known in the art that the adhesive used can be applied to the adhesive panel 15, right panel 11, or both as long as the adhesive will contact both the punch scores 8 and knock-outs 9 when the appropriate panels are in contact," and further that "the strip of a adhesive applied preferably is applied from the top to the bottom of the appropriate panel through the punch scores 8 or knock-outs 9." Page 10, line 15 through page 11, line 6.

Applicants submit that the above noted disclosure teaches that the adhesive may be disposed in a variety of locations, lengths, and sizes, and that at the very least it teaches that the adhesive may align with the punch scores and the knock-outs and extend across the adhesive panel along the punch scores and knock-outs. Applicants therefore submit that the rejections with respect to Section 112 are improper and should be withdrawn.

III. Invention Summary

As described in Applicants previous Response, filed January 12, 2004 and hereby incorporated herein by reference, the present invention is directed to a folding carton construction that permits the carton to be easily unfolded while still maintaining sufficient strength to carry the desired contents. The manufacturer's flap of the carton may include various

permutations of punch scores, knock-outs, adhesive, and an uncoated stripe allowing a manufacturer to control the adhesive strength of the carton and at the same time decrease the likelihood of tearing of the interior surface of the carton.

All three independent claims are amended to more clearly define the “coated” and “uncoated” regions. Claim 1 states that the knock-outs are defined by an absence of any coating material, so that the adhesive directly adheres to the surface of the second panel in the location of the knock-outs. Claim 14 defines an adhesive for securing the first panel to the second panel when said blank is folded to form the carton, and states that the adhesive directly adheres to the first panel in the location of the knock-outs and the uncoated stripe. Claim 35 states that the adhesive directly adheres to the knock-out panel at the knock-outs. The amendments are directed to the fact that the knock-outs and uncoated stripe are regions having no coating. This absence of coating provides greater adhesion in those locations when the panels are secured together, because the adhesive adheres directly to the surface of the paperboard in those locations. The size of the uncoated regions can be varied to control the strength of the adhesion.

IV. Art Rejections

A. Section 102 Rejection

As previously presented, claims 1-4, 6, 7, 12, and 14-20 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,029,714 to Cassidy.

Cassidy was addressed in the previous Response, and those comments are incorporated herein by reference. Applicants do not believe that it is necessary to burden this file history by repeating those remarks. Suffice it to say that Cassidy includes a contents access opening with two overlapping flaps that are sealed together. The two flaps are coated with a PET coating, further coated at a series of embossed regions, and additionally coated with an abseal coating in the areas between the embossed regions. The two flaps are joined together only at the embossed regions with an adhesive.

With respect to amended claims 1, 14, and 35, Cassidy does not disclose a panel surface having a plurality of knock-outs that are defined by an absence of coating material. Cassidy further does not disclose directly adhering to the surface of the panel containing knock-outs in the location of the knock-outs and/or the uncoated stripe when the blank is folded to form a carton. It is asserted that the abseal regions of Cassidy teach the uncoated knock-outs of the claimed invention. However, both panels disclosed by Cassidy are completely coated with a PET coating and then further coated with an embossment and an abseal. Quite to the contrary of the present invention, Cassidy attempts to control the adhesion between the panels by adding *additional* coatings to the paperboard instead of uncoated regions. The present invention may provide advantages over Cassidy by not requiring the time and expense of these additional coatings.



Additionally, with respect to amended independent claim 1, Cassidy does not disclose a series of coated and uncoated regions located on a manufacturer's joint. Cassidy only teaches controlling adhesion on a contents access opening. The contents access opening and the manufacturer's joint are two different features that serve completely different functions. With respect to claims 14 and 35, Cassidy does not additionally disclose an uncoated stripe defined by an absence of coating. With respect to amended claim 35, Cassidy does not additionally disclose the adhesive disposed in a continuous line extending through the punch scores and the knock-outs.

B. Section 103 Rejections

As previously presented, all of the claims were rejected as being unpatentable under 35 U.S.C. 103. Claims 1-4, 6, 7, 12 and 14-20 were rejected over Cassidy in view of Wein. Claim 35 was rejected over Cassidy. Claim 5 was rejected over Cassidy in view of U.S. Patent 4,289,240 to Mueller. Claim 13 was rejected over Cassidy in view of U.S. Patent to Katzenmeyer. Claims 8-10, 21, and 22 were rejected over Cassidy in view of U.S. Patent 3,096,918 to Van Dyke. Claim 11 was rejected over Cassidy in view of Katzenmeyer.

With respect to claims 1-4, 6, 7, 12 and 14-20, Wein does not supplement the noted inadequacies of Cassidy. Like Cassidy, Wein teaches the application of additional coating materials to an already coated carton in order to control adhesion strength. Wein does not disclose knock-outs that are defined by an absence in the coating. Instead, Wein teaches the addition of a special ink to decrease adhesion in particular areas. In addition, Wein is directed only toward a contents opening flap, not a manufacturer's flap.

With respect to claim 35, it is asserted that it would have been obvious to one of ordinary skill in the art to add adhesive as claimed. The addition of adhesive to a paperboard carton is well known. However, as discussed above, Cassidy does not teach the uncoated regions of the present invention. In fact, Cassidy teaches away from the present invention by controlling adhesion only by *adding* coatings. Since the art actually teaches away from the present invention, Applicants submit that it does not supplement the inadequacies of Cassidy with respect to the present invention.

With respect to claims 5, 11, and 13, neither Mueller nor Katzenmeyer supplement the noted inadequacies of Cassidy. Mueller and Katzenmeyer are cited for showing that adding adhesives and varnish coatings to containers is well known. Applicants do not argue that adhesives and coatings are new. Rather, Applicants submit that like Cassidy and Wein, Mueller and Katzenmeyer teach away from the subject matter of the present invention by teaching only the addition of coatings to a carton surface.

With respect to claims 8-10, 21, and 22, Van Dyke does not supplement the noted inadequacies of Cassidy. Van Dyke is cited for teaching the container with an adhesive panel and a right panel that Cassidy lacks. However, Van Dyke still only discloses a flap for accessing the contents of a carton, and in no way supplements the inadequacies of Cassidy as set forth above. Van Dyke does not disclose, teach, or suggest a manufacturer's flap, a carton foldable to an open position, or knock-outs defined by an absence of coating.

It is respectfully submitted that Cassidy does not anticipate the subject matter of the pending claims and that any attempt to reconstruct the subject matter of the pending claims can only be made in hindsight with the present invention as a blueprint. However, even such an

Applicant : Michael P. Ronan  
Serial No. : 10/058,594  
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improper combination does not teach or suggest the present invention for the reasons stated above. It is therefore respectfully submitted that the rejections under 35 U.S.C. 102 and 103 are unfounded or overcome, and therefore should be withdrawn.

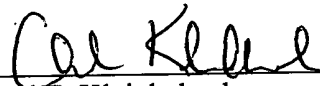
V. Conclusion

In view of the above amendments and these remarks, Applicants respectfully submit that the present application is in condition for allowance. A notice to that effect is earnestly and respectfully requested.

Respectfully submitted,

MICHAEL P. RONAN ET AL

By: Warner Norcross & Judd LLP



Chad E. Kleinheksel  
Registration No. 53 141  
900 Fifth Third Center  
111 Lyon Street, N.W.  
Grand Rapids, MI 49503-2487  
(616) 752-2313